

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-7383 of 2021
alongwith
C.Ps. No. D-1557 of 2020, D-1177 and D-741 of 2022

Order with signature of Judge(s)

Priority

1. For orders on CMA No.21514/2022 (Order 1 Rule 10 CPC)
2. For orders on CMA No.18886/2022(Order 1 Rule 10 CPC)
3. For orders on CMA No.18888/2022 (Order 1 Rule 10 CPC)
4. For orders as to non-prosecution of CMA No.17811/2022
5. For hearing of CMA No.32415/2021
6. For hearing of main case

10.10.2022

Mr. Atique-ur-Rehman, Advocate for petitioners
in CP No.D-7383/2021

Dr. Rana Khan, Advocate for petitioner in C.P No. D-1177/2022

Mrs. Mahmooda Suleman, Advocate for Intervener (*M/s.Amreli Steel Limited*) in C.P. No.D-7383/2021 and C.P. No. D-741/2022

Mr. Ashraf Ali Butt, Ms.Rehmat-un-Nisa and Mr. Sohail H. K. Rana,
Advocates for Cantonment Boards

Mr. Naeem Akhter Talpur, Additional Advocate General

Mr. G. M. Bhutto, Assistant Attorney General

Mr. Muhammad Idrees, Advocate for respondents in CP No.D-7383/2021 and in C.P No.D-1177/2022

Mr. Asmar Ayan, Law and D.D. Admin, D.M.C. South is present

1. Advocate for Intervener (*M/s. Amreli Steel Limited*) in C.P. No.D-7383 of 2021 and C.P. No. D-741 of 2022 seeks time.

2&3. None present for the said Interveners. Both these applications are stand dismissed for non-prosecution.

4. Since nobody appeared on 19.04.2022 for Respondent No.24 (*Nelson Paints Pvt. Ltd.*) order was passed that *ex-parte* proceeding be carried out against them, however, since Mrs. Mahmooda Suleman, Advocate has filed Vakalatnama on behalf of the said respondent, she may make her submissions at the time of final arguments in the present matter.

5&6. Grievances of the petitioners are manifold. While at one hand they seek implementation of the judgment passed by the Hon'ble Supreme Court in *Suo Moto* Case No.27 of 2018 dated 17.10.2018, where

the Hon'ble Supreme Court has categorically directed public functionaries not to permit installation of billboards or hoardings on any Public Property (defined in the second paragraph of the judgment) and called upon authorities across the country to remove all such billboards/hoardings installed within their jurisdiction within a period of one and half month and to file compliance report. The said judgment also held that billboards/hoardings, which were installed in public properties even under any license or lease granted therefore, shall be **uprooted** within forty-five days by the concerned advertising agencies, which owned such billboards/hoardings either directly or through their contractors or by the authorities themselves, who earlier had given permissions for putting up such billboards and hoardings. The Hon'ble Supreme Court also directed that in future no permission be granted by any authority within the country to install a billboard/hoarding on any portion of a public property. In the concluding part of the judgment, the Hon'ble Supreme Court warned that institutions and agencies, who remain non-compliant, those would be prosecuted. In the second last paragraph, the Hon'ble Supreme Court directed the Attorney General to finalize the amendments in the proposed by-laws with regards installation of such billboards/hoardings (after having meetings of the stake holders having been called) in respect of such billboards/hoardings intended to be fixed beyond the public properties. While on the other hand some of the petitioners have challenged the competency of Cantonment Boards to levy fee or charges in respect of billboards/hoardings installed within their jurisdiction, as well as some petitioners have even challenged *vires* of Rule 10(1) and (2) of the Sindh Local Councils Advertisement Rules, 2021 and the purported amendments made in the Sindh Local Government Act, 2013 alleging such amendments to be against the spirit of the judgment of the Hon'ble Supreme Court.

This petition was filed on 18.12.2021, on which comments as well as objections were filed by Respondent Nos.1, 2, 6 and 8 on 02.02.2022, by Respondent No.7 on 07.02.2022, Respondent No.5 on 09.02.2022, Respondent Nos.15 and 19 on 01.03.2022, Respondent No.13 on 19.04.2022, Respondent No.3 on 11.05.2022, Respondent No.14 on 23.05.2022, Respondent No.12 and 23 on 31.05.2022 and Respondent No.24 on 04.07.2022. Mr. Naeem Akhtar Talpur, Additional Advocate General Sindh for Respondent No.11 (Secretary to Government of Sindh, Local Government, Housing and Town Planning Department, Sindh Secretariat, Karachi) seeks time to file comments.

Learned counsel for the petitioners agitated that till date respondent No.11 has not filed its comments, whereas, perusal of the file reflects that comments have been filed by Respondent Nos.1, 2, 3, 5, 6, 7, 8, 12, 13, 14, 15, 19, 23 and 24 on the above dates. Learned counsel for the petitioners submits that the acts of the respondents of installing billboards and hoardings on the public properties are in gross contempt of the Hon'ble Supreme Court judgment dated 17.10.2018 and while the Cantonment Boards at the same time illegally continue to charge fees and charges from erectors of such boards, as well as, the advertisers despite lacking competency under sections 61 and 62 of the Cantonment Boards Act, 1924 and at the same time the Sindh Government has proposed changes which are in violation of the judgment of the Hon'ble Supreme Court.

Valuable assistance has been provided by Mr. Ashraf Ali Butt, who is acting for Faisal Cantonment Board. He stated that other than Faisal Cantonment Board none of the other Boards have gone through the prescribed procedure of issuing notification under sections 61 and 62 of the Cantonment Boards Act, 1924 to charge any fee and submitted that the accompanying photographs showing such installations of billboards and hoardings available between pages 117 to 201 do not pertain to the

jurisdiction of Faisal Cantonment Board. Learned counsel for the petitioners states that despite numerous opportunities have been given to the AAG no comments have been filed.

In the circumstances at hand, where consensus has emerged that the judgment of the Hon'ble Supreme Court, while defining the public property has completely restrained public functionaries to have billboards/hoardings installed within their jurisdiction. But on account of the prevailing situation such boards/hoardings are seen across the city, serious contempt of the judgment of the Hon'ble Supreme Court is made.

We, accordingly, while adjourning this matter to **15.11.2022** and giving thirty days' last opportunity to AAG to file comments on behalf of the Government of Sindh, direct the respondents to ensure that Hon'ble Supreme Court's judgment dated 17.10.2018 is complied with in letter and spirit, meaning thereby no billboards/hoardings be affixed/installed or continued to exist on public properties including hoardings, sidewalks, islands in the centre of a road/service lane, overhead bridges, underpasses, overhead pedestrian walkways/bridges, including sponsored roundabouts, green belts, pedestrian lanes, Nullahs etc. within the jurisdiction of any of the Cantonment Boards or Civil Areas, and with regards deployment of such billboards/hoardings on places other than the public properties, respondents are directed to submit alongwith statement outcome of the deliberations and meetings that took place with the stakeholders with regard to the methodology of granting permissions for installation of such billboards/hoardings on non-public properties, as mandated by the Hon'ble Supreme Court.

JUDGE

JUDGE